REMARKS

Claims 1-20 remain pending. The Applicant respectfully requests reconsideration of this application in light of the foregoing amendments and the following remarks.

I. Claims 8, 12, 16 and 20 Stand Rejected Under 35 U.S.C. § 112, ¶2

The Examiner rejected claims 8, 12, 16 and 20 under 35 U.S.C. § 112, ¶2 as failing to particularly point out and distinctly claim the subject matter which Applicant regard as the invention. The Examiner contends that he does not understand the reasoning behind "maintaining in a separate account up to one single share" and request citation to the specification of supporting disclosure along with an explanation as to why this step is required.

The Applicant notes that this feature can be found in paragraph [0120] of the published application, which is reproduced below for the convenience of the Examiner:

> [0120] The computer-based system of the present invention permits, without incurring any additional costs, investors to purchase or sell small--and even fractional--units of shares. This is because, according to one embodiment of the computer-based system of the present invention, the system aggregates orders provided by its investors, executes the aggregated transactions and then allocates the acquired (or cash for sold) shares back to the accounts of the investors. (Since transactions outside of the system must still be made in full share amounts, it is possible that a fractional share amount could remain after the allocations. For example, 71/2 shares of a stock in total could be allocated to 15 different accounts--with 1/2 share allocated to each. To effect this transaction, if the shares are acquired from outside the system, the broker operating the system would acquire 8 shares. The remaining 1/2 share would be owned by the broker or a third party worker with the broker operating the system and held for allocation as needed in subsequent rounds of trading.) Consequently, an investor could have $150 per week invested in 50 stocks, receiving an allocation to his account of fractional shares. Each subsequent week, the investor would have added to his account additional fractional interests in each of these stocks. Over the course of a year with, for

> example, about $7,800 invested, the investor would have full and fractional shares in his account (if the average stock price were $30, the investor would have on average a little over 5 shares--5.2 shares to be precise--in each of 50 stocks). The system of the present invention permits that full investment each week (or any desired period) in a diversified portfolio, the transactions in small share interests, and the transactions in fractional interests (none of which is possible on a cost-effective basis with ordinary brokerage). According to another embodiment of the computer-based system of the present invention, the system could be maintained by a broker so that the orders of the investors are executed by the broker or a third party as principal, with the broker maintaining a position in the securities, and thereby, in essence, aggregating the orders of the investors as contra-side transactions of the broker. Periodically, the broker could then execute an off-setting trade in the market place if the broker did not wish to carry the position.

As evident from the above disclosure, "maintaining in a separate account up to one single share of each investment in which there is at least one trading order for a fractional share of said each investment" as recited in the claims at issue enables the system to conduct fractional share trading in an economically feasible manner.

Therefore, the Applicant notes that the claims at issue particularly point out and distinctly claim the subject matter which Applicant regards as the invention and respectfully requests reconsideration and withdrawal of this rejection.

II. Claims 1-5, 6, 10, 14 and 18 Remain Patentable Over a Combination of References (Champion et al., Ray et al., Palm Beach Post and Newberry)

Claims 1-5, 6, 10, 14 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,123,936 to Champion et al. [hereinafter "Champion et al."] in view of U.S. Patent No. 6,018,722 to Ray et al. [hereinafter "Ray et al."] and further in view of an article in the Palm Beach Post entitled "Direct Buy Stocks Cut Out Middle Man" dated

March 9, 1998 (see page 17) [hereinafter "Palm Beach Post"]. While the Examiner has not specifically cited an article in the ABA Journal by Jon Newberry entitled "Bye Bye Broker" dated March 1998 at Vol. 84, page 90 [hereinafter "Newberry"] in his summary paragraph, he has cited Newberry in his remarks. Therefore, the Applicant will address this rejection as if Newberry is part of the cited references. The Applicant traverses this rejection and respectfully disagrees with the Examiner's characterization of these references vis-à-vis the claims at issue.

The Examiner contends that Champion et al. discloses all of the elements of these claims except for "establishing an aggregate portfolio of investments from the first customer and from a plurality of other customers of the sponsoring organization, wherein said aggregating includes combining orders for investments from the customer and the plurality of other customers into a single order for each investment, including combining at least one economically unviable order for an investment."

For this missing teaching, the Examiner cites Ray et al. at col. 1, lines 59-60, which states "mutual funds, which 'pool' the assets of a number of shareholders." The Examiner contends that this teaches combining orders of investors. However, the Applicant notes that mutual funds do not combine orders from different investors into a single order. Rather, a mutual fund is a security that is purchased by an investor, which security has a relationship to the assets held by the mutual fund, for example, stocks. But, no orders from different investors (customers) are combined in a mutual fund.

The Examiner then cites Palm Beach Post as teaching combining at least one economically unviable order for an investment, such as buying a single share of an investment vehicle. Palm Beach Post teaches that one can buy a single share of a stock through NAIC, and

then purchase stocks directly from the company, because one can only purchase shares from the issuer if you already own stock in the issuer.

In contrast, the present invention enables fractional share trading and odd lot trading without purchasing stock directly from the issuing company. Palm Beach Post does not teach combining of economically unviable trading orders with any other orders, but merely that if you wish to purchase stock in small amount you must do so through the issuer. This essentially teaches away from combining such orders with other orders because combining is not possible when you must order directly from the issuer. For example, who would the owner of the combined order be so that the issuer would permit purchase of stock in a combined order? Thus, one cannot create a single order from multiple investors to purchase shares directly from an issuer. Thus, this reference teaches away from combining orders including economically unviable trading orders.

The Examiner further cites an article in the ABA Journal by Jon Newberry entitled "Bye Bye Broker" at Vol. 84, page 90 dated March 1998 [hereinafter "Newberry"] as teaching some motivation to combine the above cited references with Palm Beach Post.

However, Newberry simply restates the ideas in Palm Beach Post, i.e., that one can buy stocks directly from the issuer. No additional teaching is provided as to how one can combine orders from other investors, including orders for odd lots or single shares or fractional shares. In fact, orders in Newberry and Palm Beach Post cannot be combined because the entity involved in each order must be an owner of stock from the issuer already.

Therefore, Champion et al., Ray et al., and Palm Beach Post (as well as Newberry) cannot be combined in the manner suggested by the Examiner under 35 U.S.C. § 103(a) to arrive at the claimed invention as recited in claims 1-5, from which claims 6, 10, 14 and 18 ultimately

depend. The Applicant requests reconsideration and withdrawal of the rejection of claims 1-5, 6, 10, 14 and 18.

III. Claims 7, 11, 15 and 19 Remain Patentable Over A Combination of Champion et al., Ray et al., Palm Beach Post and Newberry

Claims 7, 11, 15 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Champion et al. in view of Ray et al., and further in view of Palm Beach Post and further in view of Newberry. The Applicant traverses this rejection and respectfully disagrees with the Examiner's characterization of these references vis-à-vis the claims at issue.

As mentioned above, Champion et al., Ray et al., Palm Beach Post and Newberry cannot be combined in the manner suggested by the Examiner under 35 U.S.C. § 103(a) to arrive at the claimed invention as recited in claims 1-5. Moreover, claims 7, 11, 15 and 19 ultimately depend from claims 1-5, which have been shown to be allowable over the same combination of references. Therefore, claims 7, 11, 15 and 19 are patentable for at least the same reasons as claims 1-5. The Applicant therefore requests reconsideration and withdrawal of the rejection of claims 7, 11, 15 and 19.

IV. Claims 8, 12, 16 and 20 Remain Patentable Over A Combination of Champion et al., Ray et al., Palm Beach Post, and Newberry

Claims 8, 12, 16 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Champion et al., in view of Ray et al., and further in view of Palm Beach Post, and further in view of Newberry. The Applicant traverses this rejection and respectfully disagrees with the Examiner's characterization of these references vis-à-vis the claims at issue.

As mentioned above, Champion et al., Ray et al., Palm Beach Post and Newberry cannot be combined in the manner suggested by the Examiner under 35 U.S.C. § 103(a) to arrive at the claimed invention as recited in claims 1-5. Moreover, claims 8, 12, 16 and 20 ultimately depend from claims 1-5, which have been shown to be allowable over the same combination of references. Therefore, claims 8, 12, 16 and 20 are patentable for at least the same reasons as claims 1-5.

Additionally, these claims add the limitation regarding maintaining an account to hold up to one share for fractional trading. Simply put, there is no teaching or suggestion in any of the references as to how to perform fractional share trading, except by purchasing fractional shares from the issuer and even in such cases no combining of orders is possible due to the requirement that orders of stock from issuers can only be made if one already owns stock in the issuer. Therefore, one cannot combine the references in the manner suggested by the Examiner to arrive at these claims. The Applicant therefore requests reconsideration and withdrawal of the rejection of claims 8, 12, 16 and 20.

V. Claims 9, 13 and 17 Remain Patentable Over A Combination of Champion et al., Ray et al., Palm Beach Post, Newberry and Wall Street Journal

Claims 9, 13, and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Champion et al., in view of Ray et al., and further in view of Palm Beach Post, and further in view of Newberry, and further in view of an article in the Wall Street Journal entitled "Frankfurt to Launch Trading System dated October 7, 1997 [hereinafter "Wall Street Journal"]. The Applicant traverses this rejection and respectfully disagrees with the Examiner's characterization of these references vis-à-vis the claims at issue.

In this rejection, the Examiner cites Wall Street Journal as teaching accepting of odd lot trades. However, Wall Street Journal fails to disclose combining orders from various investors, which orders include orders for odd lots, fractional shares or single shares, which are termed economically unviable trading orders by the present invention.

As mentioned above, Champion et al., Ray et al., Palm Beach Post and Newberry cannot be combined in the manner suggested by the Examiner under 35 U.S.C. § 103(a) to arrive at the claimed invention as recited in claims 1-5. Moreover, claims 9, 13, and 17 ultimately depend from claims 1-5, which have been shown to be allowable over the same combination of references. Therefore, claims 9, 13and 17 are patentable for at least the same reasons as claims 1-5. The Applicant therefore requests reconsideration and withdrawal of the rejection of claims 9, 13 and 17.

CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of objection and rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R.§1.16 or §1.17 to Deposit Account No. 11-0600. The Examiner is invited to contact the undersigned to discuss any matter regarding this application.

Respectfully submitted,

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